PLANNING AND ENVIRONMENT COMMITTEE: VOTE OF NO CONFIDENCE (P.45/99) - COMMENTS

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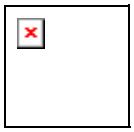

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COMMENTS OF THE PLANNING AND ENVIRONMENT COMMITTEE ON THE PROPOSITION OF NO CONFIDENCE (P.45/99) OF SENATOR R.J. SHENTON

Introduction

Senator R.J. Shenton O.B.E., a former President of the Island Development Committee, has asked the States to express a lack of confidence in the Planning and Environment Committee (P.45/99). This reports deals with the specific points raised in Senator Shenton's proposition.

Members may be surprised at the lack of substance in the report, especially as Senator Shenton had several weeks in which to research it. He has chosen to ignore all the broad, strategic planning issues with which the States has concerned itself in successive Strategic Policy debates as well as the policies set out in the Island Plan. Together this is the framework within which the Committee works.

Senator Shenton uses broad generalisations to seek to undermine the position of the Committee, with absolutely no evidence to support his assertions. His suggestion that "its lack of decision making was costing the Island a great deal of money" is completely unjustified. From the evidence supplied in response to questions from the Deputy of St. John on 2nd February 1999 it is quite clear that the Planning and Environment Committee has an excellent record in dealing with applications, whilst at the same time making significant progress on a whole range of strategic and corporate issues.

Senator Shenton's proposition dwells upon six "cases": the Island Site, the Grouville Bay Hotel development, Project Immanuel, Housing, the findings of recent Boards of Administrative Appeal and Windyways, St. Peter. In the case of the Island Site he has included a highly selective and personalised chronology prepared by the Waterfront Enterprise Board which should be regarded with extreme caution.

The cases to which Senator Shenton refers must be seen in the context of the 9,000 applications processed by the Committee since taking office, 93 per cent of which have been approved.

Members are urged to concentrate on the tremendous amount of policy work undertaken by the Committee. Changes affecting planning and the environment do not happen quickly; they require continuity of thinking. Above all, the present Planning and Environment Committee has taken its decisions in line with the corporate policies established by the States. A more detailed summary of the Committee's work was published earlier this week.

How perverse it would be to remove a Committee for sticking to policies which States members themselves have approved.

The Island Site

The idea, advanced by Senator Shenton, that the Planning and Environment Committee is deliberately frustrating the Waterfront Enterprise Board because it *"appears to know what is best of all of us"* is strongly refuted (page 4). Nor is it true that the Committee has done *"everything to avoid a States debate"* on the matter (Comment 5 page 14). Indeed, the Committee would welcome a full airing on the matter, but not through the back door of a 'no confidence' debate.

In 1990, the States voted to designate the Island Site a Site of Special Interest under Article 9 of the Island Planning (Jersey) Law as amended. The Committee of the day did not proceed to make the Order. Ever since, there has been dispute about whether members thought they were agreeing to protect the whole site - including the internal buildings - or simply the exterior walls. This aspect can be checked by reference to the proposition of the then Island Development Committee (P.151/89) which asked the States to agree the Planning Brief for the Waterfront area before the Committee appointed consultants to produce the Waterfront Plan. In the projet there is reference to the Planning Brief where, at paragraph 6.8 and drawing No. 01.226.21, it is clear that it was intended to retain the buildings within the perimeter wall. The States should never have been in any doubt that the whole site warranted protection and that the internal buildings should be retained and incorporated in any re-development. This conviction was also held by the previous Planning Committee.

This approach to the Island Site - mirroring best conservation practice in the rest of Europe - was clearly conveyed to the Waterfront Enterprise Board when it brought forward plans for a transportation centre. The Waterfront Enterprise Board was responding to a successful amendment by the Connétable of St Helier in 1995, which confirmed the States' previous decision to move the existing bus station from the Weighbridge to the Island Site. Interestingly, the Connétable's amendment sought to re-instate an earlier plan which included a "Covent Garden type development".

This explanation of the Committee's stance on the Island Site completely undermines the start of Senator Shenton's chronology, supplied to him by the Waterfront Enterprise Board. It is suggested that, in January 1997, the Committee was supportive of the Waterfront Enterprise Board's plans. This is untrue. The Committee's reservations about the failure to

conserve the internal buildings was clearly explained to the Waterfront Enterprise Board representatives.

The Waterfront Enterprise Board ignored this advice and submitted a planning application which was rejected. They must recognise that the Planning Law applies equally to private developers and the States. A public body should not be allowed to circumvent the policies of the States.

The Waterfront Enterprise Board chronology, presented by Senator Shenton, also omits a very important meeting in September 1997, when the President of the Planning and Environment Committee offered the Waterfront Enterprise Board the opportunity of bringing in an independent arbitrator. This was declined because the Chairman of the Waterfront Enterprise Board said he knew all that was needed to know about public transport and they would not reconsider their scheme. This opportunity, if the Waterfront Enterprise Board had taken it, would have avoided the public wrangling, acrimony and delay.

The Policy and Resources Committee asked the Planning and Environment Committee and the Waterfront Enterprise Board to present their preferred approaches to States members in January 1998. It was clear that many members would support the Planning and Environment Committee approach if it could truly accommodate the bus company and be achieved without the use of public funds.

Reacting to the mood of that presentation, the Policy and Resources Committee gave the Planning and Environment Committee three months to demonstrate the viability of its approach. A brief was prepared and circulated. Seven firms prepared submissions. Three were preferred and their details were submitted to the Policy and Resources Committee in May 1998. All the schemes would have provided a transportation centre and would have been completed at nil cost to the States. At a meeting on 26th May 1998, the Policy and Resources Committee approved the actions of the Planning and Environment Committee. Three days later, at another meeting, attended by representatives of the Waterfront Enterprise Board, Policy and Resources Committee changed that decision and chose to halt the process - without explanation.

The interested developers were put on hold. Frustrated by this turn of events, the Planning and Environment Committee formally complained to the President of the Policy and Resources Committee. In June 1998 the Planning and Environment Committee prepared its own draft report and proposition and was ready to lodge it “au Greffe”. This puts the lie to Senator Shenton’s assertion that the Committee has done everything possible to avoid a States debate.

Instead of proceeding with his Committee’s proposition, the President, Senator Quérée, agreed to a meeting with the President of the Policy and Resources Committee, Senator Horsfall (who had also said he would lodge a proposition), and the Bailiff. The Bailiff’s advice was that it would be wrong to lodge either proposition before the Planning and Environment Committee had decided to implement the decision of the States, taken in 1990, to designate the Island Site a Site of Special Interest (SSI).

Following this advice, it was agreed that the Planning and Environment Committee would carry out the designation process. This was completed on 26th November 1998 in accordance with the procedures laid down in the Planning Law.

The Waterfront Enterprise Board offered no evidence to counter the argument that the site, and its complex of buildings, was of sufficient architectural, cultural and historic merit to warrant designation. The case for designation was supported by the Société Jersiaise, the National Trust for Jersey and Save Jersey’s Heritage. Evidence was heard from, among others, leading architectural historian Sir Charles Brett.

The exhaustive SSI hearing - held in public - threw up one interesting point. It became obvious that the exact requirements for a transportation centre had not been clearly and impartially defined, and that the Waterfront Enterprise Board had relied entirely upon the stated requirements of the existing operator. An attempt by the Planning and Environment Committee, early in 1997, to agree an objective brief jointly with the Waterfront Enterprise Board, JMT and the Public Services Committee had to be aborted because the Waterfront Enterprise Board and JMT were unwilling to discuss the issues.

After the hearing, it was agreed jointly by the Planning and Environment and Public Services Committees that these requirements should be objectively examined and defined more carefully. The Public Services Committee established a transportation working party and employed external consultants to assist. Preliminary findings suggest that neither the Waterfront Enterprise Board scheme nor the Planning and Environment Committee approaches will entirely satisfy the transportation needs of the Island, and have raised doubts about the move from the Weighbridge. Frustrating as this outcome may seem, the blame cannot be laid at the door of the Planning and Environment Committee, which has adopted a consistent approach to the problem of the Island Site.

It is important to point out that the Planning and Environment Committee has never wanted to act as a developer. It was forced into having outline approaches prepared and demonstrating the viability of those approaches. The Waterfront

Enterprise Board, unlike private developers, will not accept planning policies.

Grouville Bay Hotel

The actions of the Planning and Environment Committee in relation to the re-development of the Grouville Bay Hotel were fully explained during the States debate on the proposition of the Connétable of Grouville (P.2/99).

When States members supported the Connétable's proposition, they believed that a refusal to grant a development permit would not involve the payment of compensation to the developer.

The Committee took stock. It asked the Solicitor General to give advice on the legal implications of following the States' decision on the basis of all the facts of the case. She explained that the developer was entitled to expect the planning permit to be followed by a development permit unless new planning factors were identified to support a refusal. No new planning factors were produced during the debate.

The Committee carefully considered all the matters raised in the debate, and concluded that not only was the scheme consistent with planning policies, it was consistent with that part of the States' decision which requested best use be made of the site. In addition, the Committee considered advice that by following the request of the States, it could be liable for compensation and court costs in excess of £2 million. It decided it had no option but to issue a development permit, even though this would go against the wishes of the Assembly.

Before issuing a permit, the Committee felt it important to inform the States. It was not possible to have another debate. The only available mechanism was a Committee Statement (Appendix attached). There was no attempt to "gag" members, as suggested by Senator Shenton, simply a desire to provide as much detail as possible. Further, the Planning and Environment Committee did **not** release the statement to the Jersey Evening Post on the day before the statement was made; the newspaper correctly guessed the direction that the Committee intended to go.

The scale of the Grouville Bay re-development has been consistently opposed by its neighbours. The Committee took their comments into account when requiring the developer to modify the scheme. But the site is a large one and the Committee feels the approved building will be a vast improvement on the one it replaces.

The Committee totally refutes Senator Shenton's allegation that the Committee "sided" with the developer. Indeed, the developer had to wait two years for his development permit and was required to provide considerable evidence that the Grouville Bay Hotel was no longer viable.

The Committee also refused the same developer consent to develop at Plemont.

Properly made planning decisions are not a matter of taking sides or just making popular decisions, but of striking the right balance between the legitimate interests of the landowner and the public interest. Nor did the Committee make the case for the developer; it acted in a fair and objective manner.

Project Immanuel

Senator Shenton has provided a diary of the activities of Project Immanuel. It is difficult to see what relevance this has to his proposition. Only seven of the diary entries relate to the Planning and Environment Committee and, of those, one has nothing to do with Project Immanuel. We note that Senator Shenton was a member of the Project Immanuel Steering Group.

Project Immanuel and Redrow Homes came to see the Committee in November 1998. The Committee was impressed with its plans for a Christian centre, homes and multi-storey car park on the Esplanade Car Park - and said so. The Committee suggested that Project Immanuel incorporate a primary school in its proposals. This was not, however, a planning application, simply an initial enquiry. The Planning and Environment Committee awaited confirmation, from the Waterfront Enterprise Board, of the status of Project Immanuel. It has come as a surprise to read in Senator Shenton's report that on 20th October 1998 the Waterfront Enterprise Board agreed with the Project Immanuel Steering Group that "the development should proceed". It would seem that agreement was reached without the approval of the Policy and Resources Committee, and was not included in the information given to the Planning and Environment Committee.

It is naïve in the extreme to suggest that the Project Immanuel Group believed the Committee's letter of 15th December 1998 gave "…effectively a consent in principle…". The letter simply confirmed that the proposals were in accordance with the present zoning and offered a number of points of constructive advice and some reservations.
On 24th September 1998, the Defence Committee called a meeting to find a solution to the re-location of the Fire Service. At the request of the Policy and Resources Committee, this was extended to establish the requirements of Police Headquarters

and, in particular, whether that requirement could be met at Stopford Road. When it became clear, as a result of the investigations, that Stopford Road was unsuitable for Police Headquarters, the attention of the Defence Committee turned to the Esplanade car park and the Vice-President of the Defence Committee discussed the possible siting of Police Headquarters there with the Chairman of the Waterfront Enterprise Board.

On 4th March 1999, at the request of the Defence Committee, a meeting of major Committee Presidents was convened to discuss these issues. The Presidents of Education, Housing and Public Services were invited because of their interests in the site. The Chairman and Managing Director of the Waterfront Enterprise Board, which has responsibility for the Esplanade car park site, also attended the meeting. The Planning and Property Services Departments, fulfilling their strategic planning and corporate property roles, had identified an opportunity to use the Esplanade car park for Police Headquarters, the new town primary school, and other public sector uses. The intention, if the meeting agreed, was to request the Waterfront Enterprise Board to investigate the opportunity.

Subsequently, this meeting was misconstrued by some as an example of the Planning and Environment Committee welcoming one scheme (from Project Immanuel) then putting forward another (for Police Headquarters). As this report explains, that was never the case. The Project Immanuel Group now accepts that it misunderstood the actions of the Committee.

The Waterfront Enterprise Board has since agreed to carry out the Policy and Resources Committee's request to undertake a feasibility study into accommodating a primary school and Police Headquarters in its area. This will not preclude an area being available for the Immanuel Centre if the States agrees.

Housing

The shortage of housing has been the major strategic problem facing the present Planning and Environment Committee. The Planning and Environment Committee was most concerned that the relative equilibrium which had been established up to 1997 had changed so dramatically. Considerable time and effort has been devoted to this problem. This is set out in greater detail in the Planning and Environment Committee's document "What have we been *doing*?"

The Planning and Environment Committee is proud of its considered and thoughtful approach to the housing problem. The rezoning of green fields might have been expedient at the first request of the Housing Committee. Past experience, however, shows that the States will not rezone land without sufficient justification, particularly since this would be in direct conflict with States strategic policies. Instead, the Planning and Environment Committee in partnership with the Housing Committee - through the Housing Forum - has broken new ground with developers, architects, builders, estate agents and financiers in finding new ways of providing urgently needed homes on sites in the urban area.

Solving Jersey's housing needs in the urban area is a goal not only of the Planning Committee but of the States as a whole. Senator Shenton, presumably, supported '2000 and Beyond', the Strategic Policy Review 1995 which requested the Planning and Environment Committee -

> *"to reflect in its planning decisions the need to concentrate residential and commercial development as far as is possible within the existing urban area."*

The Urban Site Initiative has been welcomed by the four Committees involved: Planning and Environment, Policy and Resources, Housing and Finance and Economics. Land has been found for a third of the 900 homes needed before 2003. More sites will be found as the initiative gathers pace; over thirty urban sites are currently being examined. As agreed by the four Committees, land on the edge of the built-up area is also being evaluated over the next three months, in recognition of the constraints of developing urban sites.

All this has been a superb example of Committees working together, and the Planning and Environment Committee reserves special praise for the Finance and Economics Committee which has so readily produced the funds for site acquisition. Given this level of co-operation, it is especially disappointing that the President of the Housing Committee has attached her name to Senator Shenton's proposition.

The current position of the four Committees is quite clear. Three major statements were agreed at a meeting in February 1999 and subsequently published in 'Planning for Homes' (R.C. 10/99) -

1. Most homes can be provided in built-up areas.
2. It may be necessary to develop suitable land on the edge of built-up areas.
3. New developments in the countryside will be restricted.

The four Committees' support for the current plan of action was reaffirmed as recently as 14th April 1999.

Administrative Review Boards

The Administrative Review Board procedure is being used widely. It gives individuals who are aggrieved by a decision of any Committee, an avenue of appeal without facing the costs of taking the Committee to court.

The impact upon the Planning Department is very great. Senior planners can spend up to one week preparing the Committee's detailed statement of facts for the panel. Nevertheless, in a system which currently lacks any type of formal Planning Ombudsman and where third-party objectors have no standing in law, the Review Board system is welcomed by the Committee.

The new system of Administrative Appeal Boards, using lay-people instead of States members, is only two years old. It may be time to review its procedures, especially as two recently-constituted Boards have appeared to simply substitute their decisions for those of the Committee - something we believe a Board should not do.

The Committee finds this section of Senator Shenton's report astonishing. He is President of the Special Committee to Consider Relationships between Committees and the States (which oversees the actions of Review Boards).The Planning and Environment Committee was seeking to meet with the President and Chairman of the Administrative Appeal Board to discuss recent decisions, but since the President has so fixed an opinion about the Planning and Environment Committee, it seems unlikely the Committee will receive an objective hearing.

The Committee's record since the beginning of 1997 is not as Senator Shenton implies. The Planning and Environment Committee has been requested to produce thirty-seven statements in response to requests for review boards. Of these -

on 11 occasions, after receiving the Department's statement, it was decided not to hold a Review Board;

on six occasions the Committee reconsidered its position and granted consent;

five reports have been submitted and a decision is awaited whether to hold a Review Board;

three requests, received in 1999, are pending.

A total of 12 Review Boards were held, of which -

five were found in favour of the Committee;

one was adjourned and the Committee subsequently granted consent;

six were found in favour of the applicant.

Of the six Review Boards found in favour of the applicants, the Committee accepted the findings in four cases, has sought clarification in one case and declined to accept the findings in one case. The President wrote to the Greffier requesting a meeting with the President of the Special Committee and the two Panel Chairmen at the beginning of February. The Committee received a reply from the Greffier in early April but has not yet had an opportunity to fully consider it.

Windyways, St. Peter

Senator Shenton completes his report with the case of one of his employees, the owner of Windyways, St. Peter.

The Committee believes the letter from Mr. Graham Smith, Assistant Director - Development Control to Senator Shenton dated 20th March 1999 in response to an appeal explains the position fairly and squarely.

This application to build was also refused by the previous Planning and Environment Committee in February 1995.

APPENDIX

APPLICATION OF DANDARA ISLAND HOMES LIMITED TO BUILD PROPERTIES ON THE GROUVILLE BAY HOTEL SITE - STATEMENT

The President of the Planning and Environment Committee made a statement in the following terms -

"1. On 19th January 1999 the States approved the proposition of the Connétable of Grouville (P.2/99) and requested the Planning and Environment Committee, when considering the application by Dandara Island Homes Limited, under Article 6 of the Island Planning (Jersey) Law 1964, as amended, for development permission in respect of the Grouville Bay Hotel site to ensure that -

best use is made of the site area; and

the new building is constructed no higher than the present hotel building on the north and south-east sides and no higher than two storeys elsewhere on the site.

2. As a result of that decision the Committee has -

reviewed the information with which the States was provided;

sought independent professional advice on the accuracy of the photo-montages presented to the States by the Connétable on the day of the debate (which, as the Committee advised the States during the debate, had not previously been verified) and the accuracy of the physical model provided by Dandara Island Homes and displayed in the States on the day of the debate;

sought the written advice of the Solicitor General on the legal consequences of the Planning and Environment Committee acting in accord with the States decision.

3. As set out in the report of the Committee in response to proposition P.2/99 -

planning permission for the construction of a complex of buildings comprising 32 apartments was approved on 14th July 1998, subject to a condition requiring the redesign of the proposed apartments at the north-west corner of the site;

on 3rd December 1998 a further planning permit was issued on the basis of amended proposals which effectively discharged the condition of the 14th July 1998 permission;

on 4th December 1998 Dandara Island Homes Limited submitted a development application in accordance with that permission. This application remains to be determined;

on 15th December 1998 Dandara submitted an application for development permission for the construction of the same building complex as was approved on 3rd December but comprising 40 apartments;

there are thus pending before the Committee two applications for development permission for the construction of the building complex. Externally the building in each is of the same dimensions as that for which planning permission was given. They differ only in the internal layout.

4. In this context it is important to clarify the distinction between *planning* permission and *development* permission -

development permission is provided for in the Law. The powers available to the Committee to *revoke or modify* a consent only apply to *development* permission. There is also a statutory right of appeal against the refusal of development permission on the grounds '*that the refusal is unreasonable in all the circumstances of the case.';*

planning permission is an informal procedure which has been adopted by successive Committees and approved by the courts as a matter of practice. It is not provided for in the Island Planning (Jersey) Law 1964, as amended. Because it is not provided for in the Law -

it does not entitle the person to whom it has been granted to carry out the development;

the Committee cannot exercise its statutory power to revoke or modify it;

the significance of a planning permission in practice is that if development permission is refused for an application in respect of which planning permission has been granted, and the applicant appeals, the previous grant of planning permission is one of the factors which the court will take into account when deciding whether the refusal is unreasonable. For that reason the Committee is constrained as a matter of law to make its subsequent decisions on *development* applications consistent with any previous planning permission, unless there is some new factor relevant to planning considerations.

5. The Committee, in previously considering the application for planning permission, responded to the substantial number of representations of residents. It -

visited the site

had profiles erected

attended two public meetings

insisted on modifications to the plans to protect those living closest to the site.

It was only when the Committee was satisfied that the amended plans were in accordance with the modifications required that it granted planning permission.

6. The planning permission is consistent with the first part of the States decision of 19th January, that is '*that best use is made of the site*'.

7. With regard to the limitations on height sought by the States the hotel buildings (now demolished) were single-storey on the south-east side and on the north they were three-storey in a small part and two-storey generally. The heights shown in the approved plans are one-and-a-half storey for the south-east and three-and-a-half storeys for the north. A half-storey provides accommodation in the roof space.

8. The Committee has been advised that the photo montages presented by the Connétable of Grouville were generally accurate. However they are open to misinterpretation because they focus on the ridge height of the new buildings whereas the eaves height is the normal observational viewpoint. In addition, one of the images was distorted because of the foreshortened viewpoint.

The model was also shown to be accurate as concerns the new buildings. However, the ridge heights of surrounding buildings were overstated, making comparison unreliable. Nevertheless, the eaves height comparison of the closest buildings, Maroa Court, was correct.

9. The decision to grant planning permission was taken after careful consideration, not of the model but of plans and elevations. These were of a standard of accuracy normally associated with planning applications.

10. The Committee is conscious on the one hand of the importance of having regard to the wishes of the States, and on the other hand of the need to act within the constraints of the law. During the debate on 19th January 1999 the Solicitor General answered general questions on the issue of compensation. After the debate, the Committee asked the Solicitor General for more comprehensive advice on the implications of acting in accordance with the decision of the States in this particular case. The advice which it received is set out in the

following italicised paragraphs.

11. *The Committee has been informed that Dandara have stated that if the Committee refuses the development application in its present form, they will appeal to the Royal Court under Article 21 of the Planning Law. Their grounds will be that such a decision is unreasonable as the Committee had already granted planning permission and that, in reliance on that permission, Dandara purchased the hotel for £3 million and incurred costs in preparing the development application. The Committee has been advised that these are factors which the Court will take into account when deciding whether the refusal is unreasonable. To refute such an argument the Committee would need to show that there was some new planning factor which had not been before it when it made its previous decision.*

12. *The only new factor is the decision of the States, and, although the Committee is entitled to have regard to the views of the States on planning matters, it is not entitled simply to substitute the views of the States for its own if all that has happened is that the States have come to a different conclusion on a particular application from that which the Committee has reached after a full consideration of all material planning considerations. In the present case the proposition upon which the request of the States was based raised no new planning factors and therefore is not of itself a sufficient new consideration.*

13. *While the outcome would not be certain, it is virtually inevitable that the appeal would be allowed and the refusal quashed. In such a case the costs of the appeal would be awarded against the Committee*.

14. *Once Dandara had received a development permission following a successful appeal, it would be open to the Committee to modify this development permission in accordance with the provisions of Article 7 of the Law. This in turn is, however, subject (a) to a statutory right of appeal, again on the grounds that the modification is unreasonable in all the circumstances of the case, and (b) if there is no appeal, or if any appeal is unsuccessful, to a statutory right to compensation for expenditure incurred in carrying out work rendered abortive by the modification and any other loss or damage directly attributable to the modification.*

15. *It is impossible to predict with certainty the outcome of any appeal. It would undoubtedly be argued on Dandara's behalf that it was unreasonable for the Committee to modify a permission which the Court had held should be granted. All that can be said with confidence is that any such appeal would be very costly and might well end in the Court quashing the modification and ordering the Committee to pay costs.*

16. It is possible that Dandara might not appeal or that an appeal might be unsuccessful, in which case the modification would stand and Dandara would be entitled to the statutory compensation. It is certain that a very substantial claim would be made.

17. The Committee does not believe that this should be contemplated. It considers the development for which it has already given planning approval is consistent not only with planning policies but also with that part of the States decision which required the best use to be made of the site. It has also already significantly reduced the effect of the development on the properties in the area, and has achieved an acceptable scheme. There is no new planning factor.

18. If, in accordance with the States decision, the Committee refuses development permission for the development in respect of which planning permission has already been given, the refusal will inevitably be followed by long and expensive legal proceedings which will probably end in one of two ways.

19. The first is that Dandara will successfully appeal against both (a) the refusal of development permission, and (b) any subsequent attempt to modify the development permission. The final result in that case would be that Dandara would be able to construct the development for which they already have planning consent and the Committee would be liable for the costs of the appeals. There would be no change to the development but there would have been a significant expenditure of public money.

20. The second is that Dandara would not appeal or they appeal but the Royal Court upholds the modification. The final result in that case would be that Dandara would build a reduced scheme which did not make best use of the site and the public would be liable to pay compensation which, it is believed, would be very substantial.

21. In this statement I have set out for members the careful and reasoned analysis which has taken place since the debate in January. It is clear to the Committee that the proposed development will be built; either by the granting of a development permit - which will cost the States nothing but go against a request of this Assembly - or after a long court case which will surely follow our refusal to issue a permit and will involve the payment of compensation. The development company has assured us that it will take the matter to court if it is denied a development permit. The cost of compensation could be in excess of £2 million, which would be in addition to both sides legal costs.

Although it has been requested to do so by the States, the Committee feels it would be reckless and irresponsible to take an action which will almost certainly result in the payment of substantial compensation and more than likely fail to achieve the second aim of the Connétable's proposition.

Taking all these factors into account, the Committee has concluded that the only legitimate course of action is to grant a development permit."